

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                           |   |                         |
|---------------------------|---|-------------------------|
| UNITED STATES OF AMERICA, | ) |                         |
|                           | ) |                         |
| Plaintiff,                | ) | 4:07CR3023              |
|                           | ) |                         |
| v.                        | ) |                         |
|                           | ) |                         |
| CARLOS A. VEGA-TOSCANO,   | ) | MEMORANDUM AND ORDER ON |
|                           | ) | TENTATIVE FINDINGS AND  |
| Defendants.               | ) | SENTENCING              |
|                           | ) |                         |

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No objection has been made by the government to the Presentence Investigation Report. The defendant's attorney has submitted objections to paragraphs 20, 24, 29, 32, 36, 37, 39, 40, and 62, thereby contending that his base offense level should be 32, downwardly adjusted by two levels for the safety valve, three levels for acceptance of responsibility without an obstruction enhancement, all resulting in a total offense level of 27.

Except as to the paragraphs of the Presentence Investigation Report to which objections have been made, I tentatively find the Presentence Investigation Report is true and accurate.

With respect to the paragraph to which objections have been made by the defendant, the defendant's counsel has said that the defendant is expected to testify for about 20 minutes on direct examination. The government has said the evidence it will present will be limited to asking the court to take judicial notice of the evidence admitted at the trial of the co-defendant, Ignacio Montes-Medina, occurring from November 13 to November 30, 2007.

It is appropriate that I hear the testimony of the defendant and study the trial transcript before resolving the objections. Because of the massiveness of the trial transcript, I shall expect the counsels to help prepare me with pointing to the pages and lines they think support their respective positions. In view of the fact that the sentencing hearing is now scheduled for June 9,

2008, I am asking that these designations of page and line be in my hands by May 28. That deadline and the sentencing hearing can be continued, if request is made to do so.

Dated May 21, 2008.

BY THE COURT

s/ Warren K. Urbom  
United States Senior District Judge